

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

MARK FOCHTMAN, et al.

PLAINTIFFS

v.

CASE NO. 5:18-CV-05047 (TLB)

DARP, INC.; HENDREN PLASTICS, INC.

DEFENDANTS

**MOTION FOR DISBURSEMENT OF FUNDS
TO HENDREN PLASTICS, INC.**

Defendant Hendren Plastics, Inc. (Hendren), and for its Motion for Disbursement of Funds, respectfully states as follows:

1. On May 22, 2020, Hendren delivered Cashier's Check No. 038669 in the amount of \$1,700,000.00 to the Clerk of the Court pursuant to this Court's Order (Doc. 171) granting Defendants' Joint Renewed Motion for Stay of Execution and Permission to Deposit Funds into the Court's Registry Pursuant to Local Rule 67.1 (Doc. 169). That Order directed the Clerk to deposit the sum of \$1,700,000.00 into an interest-bearing account administered by the Court Registry Investment System (CRIS) "until the Clerk advises that the funds shall be withdrawn for disposition pursuant to further order of this Court." (Doc. 171, at P. 2).

2. On August 25, 2022, the U.S. Court of Appeals for the Eighth Circuit entered its opinion in favor of Hendren and DARP because Plaintiffs were not "employees" under the Arkansas Minimum Wage Act. *Fochtman v. Hendren Plastics, Inc.*, 47 F.4th 638 (8th Cir. 2022), *reh'g denied* 2022 WL 4589698 (8th Cir. Sept. 30, 2022). The Mandate issued on October 7, 2022.

3. Pursuant to Local Rule 67.1(k), Hendren respectfully requests the entry of an Order directing the Clerk of the Court to disburse the funds held to secure the stay of execution pending appeal, with applicable interest, to Hendren. (*See* Doc. 172).

4. While a good faith conference is not required, Hendren conferred with Plaintiffs' counsel prior to submitting this Motion. Hendren is authorized to represent that Plaintiffs do not oppose this Motion.

Respectfully submitted,

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